

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

FIRST APPEAL NO.1968 OF 2018

The New India Assurance Co. Ltd
Through its Branch Manager,
Office at Parag Plaza, Dr. Chatuphale Marg
Shivaji Cross road, Shrirampur, Dist. Ahmednagar
Through its authorised signatory,
Asst. Manager, Legal Hub,
Aurangabad D.O. Aurangabad.

...Appellant

Versus

1. Teresa Simon Chakranarayan
Age 51 yrs, Occ. Household.
2. Sunny Simon Chakranarayan
Age 27 yrs, Occ. Education.
3. Vikas Simon Chakranarayan
Age 25 yrs, Occ. Education.

R/o. Rahuri Factory Karalewadi
Tq. Rahuri Dist. Jalgaon.

4. Bharat Yosef Chokhar
Age Major, Occ. Driver,
R/o Nimbhere Tq. Rahuri,
Dist. Ahmednagar.
5. Anil Madhavrao Said
Age Major, Occ. Business,
R/o Ward No.2 Kazibaba Road
Shrirampur Tq. Shrirampur
Dist. Ahmednagar.

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Advocate for Appellant : Mr. Dhananjay P. Deshpande
Advocate for Respondent Nos. 1 to 3 : Mr. Rahul R. Karpe

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**CORAM : P.R. BORA, J.
DATED : 01st March, 2019.**

ORAL JUDGMENT:-

. With consent of the learned counsel appearing for the parties, the matter is heard finally at the admission stage.

2. The present respondent nos. 1 to 3 had filed the Motor Accident Claim Petition No.3 of 2017 claiming compensation on account of death of Simon Chakranarayan alleging the same to have been caused in a motor accident happened on 12.11.2016 having involvement of Ape Rickshaw bearing registration no. MH-17-BD-1020 owned by present respondent no.5 and insured with appellant-insurance company. Respondent nos. 1 to 3, who are hereinafter referred to as the 'claimants' had filed the aforesaid claim petition against the driver, owner and insurer of the said Ape Rickshaw claiming compensation of Rs.10,00,000/- alleging the accident to have been caused because of the negligence on part of the driver of the said Ape Rickshaw. The petition was resisted by the appellant-insurance company mainly on the ground that the driver of the Ape Rickshaw was not holding a valid driving licence to drive the transport vehicle i.e. the offending Ape Rickshaw. The Tribunal however, turned down the said objection and held the appellant-insurance company jointly and severally

liable to pay the compensation of Rs.4,59,000/- to the claimants along with the owner of the Auto Ape Rickshaw. Aggrieved by, the appellant-insurance company has preferred the appeal.

3. In the appeal, the main ground of objection as has been raised by the appellant-insurance company is pertaining to the driving licence of the driver of the Auto Ape Rickshaw. However, the objection so raised would not sustain in view of the law laid down by the Hon'ble Apex Court in the case of **"Mukund Dewangan Vs. Oriental Insurance Company Limited, 2017 AIR(SC) 3668"**. The evidence on record shows that on the date of accident i.e. on 12.11.2016, the driver of the Auto Ape Rickshaw though was not holding the driving licence to drive the transport vehicle, the driving licence issued in favour of the said driver was for the period upto 25.07.2026 for light motor vehicles. In the said licence it was mentioned that it was valid so far as the transport vehicles are concerned for the period upto 05.01.2013. It was thus evident that though the validity of the licence in transport category was expired in the year 2013, the validity of non-transport licence was till the year 2026. The Hon'ble Apex Court in the case of 'Mukund Dewangan' (cited supra) has held that light motor vehicle

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includes transport vehicle also and as such the holder of light motor vehicle licence can drive all the vehicles of the class including the transport vehicles. In view of the law laid down by the Hon'ble Apex Court as above, the only objection raised by the appellant-insurance company in respect of the impugned judgment and award deserves to be turned down. In the result, the appeal fails and is accordingly dismissed however, without any order as to costs.

4. The amount deposited by the appellant-insurance company in this appeal is permitted to be withdrawn by the respondents together with interest accrued thereon.

5. Pending civil applications, if any, stand disposed of.

(P.R. BORA, J.)

Mujaheed//